

REMARKS

Applicants have cancelled the previously withdrawn claim 23 without prejudice.

Applicants now turn to the specific rejection.

The Examiner rejected claims 1-9, 11-16 and 18-22 under 35 U.S.C. §103(a) as allegedly obvious over the inventor's own Canadian Patent Application No. 2332187 published on July 24, 2002 ('187 application).

Applicants respectfully submit that the '187 application has been improperly applied as prior art as explained in detail below. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection.

35 U.S.C. §102 determines the allowable prior art and states in applicable portions that a person shall be entitled to a patent unless (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, **before the invention thereof by the applicant for patent**, or (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, **more** than one year prior to the date of the application for patent in the United States.

The present application was filed on July 24, 2003. The foreign '187 application was published on July 24, 2002. The sole inventor of the present application, Alexandre Blais, is also the sole inventor of the '187 application.

In view of the facts described above, Applicants respectfully submit that the section 102(b) does not apply to the '187 application, because it was not published **more than** one year prior to the filing of the present application. The publication was made **exactly one year** prior to the filing of the present application.

Applicants further submit that section 102(a) does not apply to the '187 application because, while the invention was described in a printed publication in a foreign country, namely, Canada, it was not done so **before the invention thereof by the applicant for patent**. Namely, the **publication was the inventor's own work** and thus **not published before the invention**.

Accordingly, Applicants respectfully submit that the '187 application is not proper prior art and thus cannot be used as a basis for obviousness arguments under 103(a).

In view of the above, Applicants respectfully submit that the claims are now in condition for allowance. Allowance of claims 1-9, 11-16 and 18-22 at an early date is solicited.

If any fee deficiencies are associated with this submission, the Commissioner is authorized to debit such deficiencies to the Nixon Peabody Deposit Account No. 50-0850. Any overpayments should be credited to said Deposit Account.

Respectfully submitted,

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/Leena H. Karttunen/

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